New France-UK Double Taxation Treaty signed – Could it effect you?

It may have taken over four years in the making but on the 19 June 2008 a new version of the double taxation treaty between France and the UK was finally signed by the Rt Hon Alistair Darling MP, Chancellor of the Exchequer, and Mme Christine Lagarde, the French Minister for the Economy, Industry and Employment.

The new treaty is expected to enter into force some time late 2009 provided all treaty adoption procedures (i.e. parliamentary approval, ratification and exchange of diplomatic notes) are completed.

Below is a summary of some of the key elements which could affect British citizens living in or moving to France should the new draft of the treaty be ratified and become law.

Delayed Wealth tax liability

Currently UK nationals moving to France are liable for wealth tax (*impot sur la fortune*) on the net value of their worldwide assets, including the value of any real estate or rights in real estate outside France. However under the new agreement for the first five years after becoming a resident of France your wealth tax liability will only be based on French assets, with all other assets outside France not being taken into account. From the sixth year of residence onwards, wealth tax will then be payable on worldwide assets as normal.

If the taxpayers leave France and provided they remain outside France for at least three years, the five-year exemption applicable to non-French assets would apply once more.

It is currently unknown if this temporary exemption will only benefit individuals who move to France after the treaty enters into force, as it is a possibility that anyone who moved to France before the treaty comes into effect could still qualify for any balance of the first five years of residence when the treaty become law.

Capital Gains Tax on UK properties by a Resident of France

Within the existing double taxation treaty a loophole exists which can mean in certain situations if a non-UK resident sells a UK property that is not used in a UK trade usually no Capital Gains Tax is levied. This is because the UK in general does not impose capital gains tax on individuals who are neither resident nor ordinarily resident in the UK, and as the treaty states that such gains are taxable in the country where the real estate is situated (which would be the UK in this case) no tax would be due in France either. This is however provided that the vendor does not move back to the UK within 5 years of leaving.

Under the new treaty this loophole will be closed through a clause that states France may tax the gain, and any double taxation will then be eliminated by a tax credit equal to the amount of tax paid in the UK. This will mean that from the date the new treaty becomes law, any gain realised on the sale of a UK property by a resident of France will fall under French capital gains tax regulations so would then be assessed and taxed accordingly. So for the example above as there is normally no liability in the UK, there would therefore be no tax credit in France and you would be fully liable to the French CGT rates.

Airline pilots

Under the existing treaty pilots who work for a UK airline but live in France can largely escape tax on their earnings in both the UK and France. This is because it gives primary taxing rights to the UK – with the income only taken into account in France to calculate the effective rate of tax payable in France on other income, but the UK only taxes the income for the days when flights start and end in the UK. Under the new treaty the loophole has been closed. French tax will be payable on the entire earnings, with a credit for any taxes paid in the UK.

Social Charges

Under the new treaty French social charges will now be treated as French Tax, which is a major change from the existing treaty as social charges did not exist when it was put into place. One area this is likely to have a significant impact on is individuals receiving rental income from the UK where currently France levies Social Charges on the income, It is expected that this will now be covered for by a credit from the UK income tax already paid.

These are the main changes that could have an effect on individuals and the full text of the new treaty is available here - **http://www.hmrc.gov.uk/international/france.pdf,** but otherwise it stays the same as the existing treaty with the taxation of government pensions in the country of origin only and the France-UK residency 'tie breaker' remaining in place.

This information is only provided as a guide and is based on our understanding of current legislation at the time of writing the article, if you need assistance in this area you are strongly advised to seek the help of a specialist in this field as each individual case is different.

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